

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition for Declaratory Ruling that	)	
tw telecom inc. has the Right to Direct	)	WC Dkt. No. 11-119
IP-to-IP Interconnection Pursuant to	)	
Section 251(c)(2) of the Communications Act,	)	
As Amended, for the Transmission and	)	
Routing of tw telecom's Facilities-Based VoIP	)	
Services and IP-in-the-Middle Voice Services	)	

**REPLY COMMENTS OF FRONTIER COMMUNICATIONS CORPORATION**

Frontier Communications Corporation (“Frontier”) hereby submits the following reply comments to urge the Federal Communications Commission’s (“Commission” or “FCC”) to reject tw telecom inc.’s (“TWTC”) *Petition for Declaratory Ruling* (“*Petition*”).<sup>1</sup> TWTC requests that the Commission make two findings: (1) that TWTC’s VoIP service is a “telecommunications service” under the Communications Act; and (2) that TWTC has the right to direct IP-IP interconnection in order to transmit and route its voice service. The record indicates that the Commission cannot grant TWTC’s request for direct IP-IP interconnection under the Act; this in turn renders TWTC’s VoIP classification proposal moot.

Frontier, which operates a telecommunications network across 27 states, is the largest provider of communications services focused on rural America. Accordingly, Frontier is committed to doing its part to deploy broadband in furtherance of the Commission’s broadband

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<sup>1</sup> *In re: Petition for Declaratory Ruling that tw telecom, inc., has the Right to Direct IP-to-IP Interconnection Pursuant to Section 251(c)(2) of the Communications Act, as Amended, for the Transmission and Routing of tw telecom’s Facilities-Based VoIP Services and IP-in-the-Middle Voice Services*, WC Dkt. No. 11-119, *Public Notice*, DA 11-1198 (rel. July 15, 2011).

deployment goals.<sup>2</sup> To this end, Frontier is investing hundreds of millions of dollars to deploy broadband in predominantly rural areas; the areas that the Commission found are most likely to lack service.<sup>3</sup>

While Frontier is investing significantly to bring broadband to rural America, it still relies heavily on TDM networks to provide voice service to many of its customers. Yet, according to TWTC, the network Frontier actually has deployed is immaterial; Frontier and other ILECs should have to defend why they are not offering TWTC IP-IP interconnection. Because of the fact that TWTC has “successfully interconnected with two long distance carriers and an E911 provider using IP for the exchange of facilities-based VoIP traffic,” TWTC concludes that the Commission should “clarify that IP-to-IP interconnection is presumptively technically feasible and that incumbent LECs bear a heavy burden of proving technical infeasibility to a state regulatory commission.”<sup>4</sup> The Commission should reject this request outright.

The record in this docket makes clear that the standard for interconnection goes beyond the “technical feasibility” that TWTC claims under the Commission’s rules;<sup>5</sup> technical feasibility is limited to what is feasible for the network in place. As the United States Telecom Association points out, “the 8th Circuit Court of Appeals decision in *Iowa Utilities Bd. v. FCC* makes patently clear that Section 251(c)(2) requires access ‘only to an incumbent LECs existing

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<sup>2</sup> *In re: Joint Statement on Broadband*, GN Docket No. 10-66, *Joint Statement on Broadband*, 25 FCC Rcd. 3420 (rel. Mar. 16, 2010) (“Every American should have a meaningful opportunity to benefit from the broadband communications era—regardless of geography, race, economic status, disability, residence on tribal land, or degree of digital literacy.”) (“*Joint Statement*”).

<sup>3</sup> *In re: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act; A National Broadband Plan for Our Future*, GN Docket Nos. 10-159; *Seventh Broadband Deployment Report*, FCC 11-78 at ¶ 4 (rel. May 20, 2011) (“The fact remains, however, that too many Americans remain unable to fully participate in our economy and society because they lack broadband. Although this is a nationwide concern, the situation is particularly bleak for Americans in rural and Tribal areas.”).

<sup>4</sup> *Petition* at 20-21.

<sup>5</sup> *Id.* citing 47 C.F.R. § 51.305(e).

network—not to a yet unbuilt superior one.”<sup>6</sup> AT&T also notes this point but goes beyond to show that the *Iowa Utilities Bd.* decision also “held that the Act ‘does not mandate that incumbent LECs cater to every desire of every requesting carrier.’ Thus, the Commission cannot require ILECs to deploy a new network using new technology simply to suit an interconnecting carrier.”<sup>7</sup> The Commission must consider that part of what is technically feasible also hinges on what is economically feasible—Frontier and other ILECs cannot bear the burden of facilitating requests from competitive carriers that would force a dramatic reengineering of its own network. If TWTC’s request were granted it would cost Frontier millions to replace its network to the benefit of TWTC—a *competitor*.

In 2010 Frontier completed a transformational transaction with Verizon through which it added millions of new customers in rural America. As with its legacy territory build out,<sup>8</sup> Frontier is aggressively expanding broadband service to these new customers—providing service to 466,000 new homes over the first year.<sup>9</sup> In fact, Frontier has formally committed to extending broadband service of 3 Mbps download speed to at least 85 percent of all homes and businesses in its expanded territory by 2013 and download speeds of 4 Mbps to 85 percent of the households in its new territories by the end of 2015.<sup>10</sup> Granting TWTCs petition for the right to demand IP-IP interconnection would cause Frontier to have to divert considerable resources from

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<sup>6</sup> Comments of United States Telecom Association, WC Dkt. No. 11-119, 3 (filed Aug. 15, 2011).

<sup>7</sup> Comments of AT&T, WC Dkt. No. 11-119, 9 (filed Aug. 15, 2011).

<sup>8</sup> Frontier’s legacy territory has an average density of only 13 homes per square mile yet Frontier has made broadband internet service available to 92 percent of homes and businesses. *In re: Applications Filed by Frontier Communications Corporation and Verizon Communications Inc. for Assignment or Transfer of Control*, WC Docket No. 09-95, *Memorandum Opinion and Order*, 25 FCC Rcd. 5972, ¶ 50 (rel. May 21, 2010) (“*Frontier Order*”). Frontier completed its merger with Verizon on July 1, 2010.

<sup>9</sup> Press Release, Frontier Communications, Frontier Communications Reports 2011 Second Quarter Results (Aug. 3, 2011) available at <http://phx.corporate-ir.net/phoenix.zhtml?c=66508&p=irol-newsArticle&ID=1592368&highlight=>.

<sup>10</sup> *Frontier Order* at App. C, Condition 1.

deploying broadband to rural America in order to provide solely for the business interests of TWTC, a company focused on enterprise customers in 75 of the nation's largest cities. In order to avoid this undesirable shift of resources, Frontier agrees with AT&T that, "[w]hile the industry is in the midst of a migration to IP technology, that transition is by no means complete. . . the ILECs cannot provide IP-to-IP interconnection to route and terminate IP traffic on the PSTN without a massive overhaul of the network, which cannot be required under section 251(c)(2)."<sup>11</sup>

As the Commission cannot grant TWTC's petition for direct IP-IP interconnection under section 251(c)(2) under any circumstances, the regulatory classification of VoIP services is irrelevant to dispensing TWTC's petition. As a result, there is no need for it to consider the regulatory classification of VoIP at this time.

For the foregoing reasons Frontier strongly urges the Commission to reject TWTC's *Petition*.

Respectfully submitted,

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/s/

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<sup>11</sup> AT&T Comments at 9-10.